REMARKS

Upon entry of the present amendment, claims 1-13 are pending in the application. Claims 1, 2 and 11 have been amended. Support for the amendments presented herein is found throughout the specification and in the claims as originally filed. For example, support for the compositions that include a reduced folate compound and a cobalamin compound such that the ratio of reduced folate to cobalamin is 125:1, as recited by amended claims 1, 2 and 11, is found at least at page 3, lines 22-23. Accordingly, no new matter has been added these amendments.

I. Rejections under 35 U.S.C. § 102

Claim 1:

Claim 1 has been rejected as being anticipated by U.S. Patent No. 6,011,040 to Muller *et al.* ("Muller"). On page 3, lines 6-11, of the Office Action, the Examiner stated:

> Although Muller is silent about the "chondroprotective effect" of said composition, such characteristic or property must be inherently present in said composition. Especially, in view of the overlapping dosage range of the active ingredients (e.g., reduced folate compound such as 5-formimino-(6S)-tetrahydrofolic acid, and vitamin B12) in a composition over the prior art range, such functional characteristic or property of said composition is deemed to be inherent to the composition. Therefore, the reference anticipates the claimed invention.

The claims have been amended to distinguish the claimed invention over Muller. In particular, claim 1 was amended to require that the reduced folate compound and the cobalamin are present in a ratio of 125:1. Muller, however, fails to describe a composition that includes reduced folate and cobalamin in a ratio of 125:1. Moreover, in Example 10, the only example of a pharmaceutical preparation that includes both a reduced folate compound (5-methyl-(6S)-tetrahydrofolic acid) and a cobalamin compound (vitamin B_{12}), the ratio of reduced folate to cobalamin is 0.4 mg of 5-methyl-(6S)-tetrahydrofolic acid to 0.002 mg of vitamin B_{12}, *i.e.*, 200:1. Therefore, the ratio recited by amended claim 1 is not anticipated by Muller.

Claims 2-10:

The rejection of claims 2-10 as being anticipated by International Application WO 98/19690 by Smith *et al.* ("Smith") has been maintained. In the previous Office Action mailed July 16, 2003, the Examiner indicated that Smith expressly teaches that "the folic acid or folate or derivatives is employed in a weight ratio to vitamin B12 of within the range of about

0.1.:1 to about 50:1 and preferably from about 0.2:1 to about 25:1." (July 16, 2003 Office Action, page 3).

Claim 2 and its dependent claims (including claims 3-10) require that the ratio of the reduced folate compound and the cobalamin is 125:1. Smith, however, fails to describe a composition that includes reduced folate and cobalamin in a ratio of 125:1. As acknowledged by the Examiner, the ratio of folic acid or folate to vitamin B12 is between 0.1:1 and 50:1 and preferably from about 0.2:1 to about 25:1. (*See e.g.*, Smith at page 10, lines 3-6). Thus, Smith does not disclose the required ratio of reduced folate to cobalamin in the compounds described therein. As such, amended claim 1 is not anticipated by Muller, and Applicants request the withdrawal of this rejection.

II. Rejections under 35 U.S.C. § 103

Claims 10-13 have been rejected as being obvious in view of Smith. Claim 10 has been amended to depend from amended claim 2, which requires that the ratio of reduced folate to cobalamin is 125:1. Independent claim 11 and its dependent claims (*i.e.*, claims 12-13) also require a 125:1 ratio of reduced folate to cobalamin.

As described above, Smith does not disclose a ratio of reduced folate to cobalamin that is as high as 125:1. Moreover, there is no teaching or suggestion in the Smith reference that would motivate one of ordinary skill in the art to use a ratio as high as 125:1, as the ratios described by the Smith reference are much lower than 125:1, *i.e.*, "in the range of about 0.1.:1 to about 50:1 and preferably from about 0.2:1 to about 25:1." (*See* Smith at page 10, lines 3-6). Thus, Applicants submit that the ratio recited by the amended claims is not obvious over the Smith reference, and this rejection should be withdrawn.

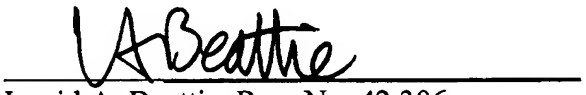
III. Information Disclosure Statement

With regard to the "PCT International Search Report dated November 2, 2002" listed on the November 25, 2003 Supplemental Information Disclosure Statement, Applicants note that all references listed on the International Search Report were individually cited in the IDS filed concurrently with the instant application on December 14, 2001 or in the SIDS filed on November 25, 2003 in compliance with 37 C.F.R. 1.98(a)(1). A copy of the ISR was provided merely as a courtesy for the Examiner.

CONCLUSION

Applicants submit that the application is in condition for allowance and such action is respectfully requested. If there are any questions regarding these amendments and remarks, the Examiner is encouraged to contact any of the undersigned at the telephone number provided below. The Commissioner is hereby authorized to charge any additional fees that may be due, or credit any overpayment of same, to Deposit Account No. 50-0311, Reference No.21629-004.

Respectfully submitted,



Ingrid A. Beattie, Reg. No. 42,306
Attorney for Applicant
MINTZ, LEVIN, COHN, FERRIS
GLOVSKY and POPEO, P.C.
Tel: (617) 542-6000
Fax: (617) 542-2241
Customer No. 30623

TRA 2011627v1